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COMMITTEE ON THE RIGHTS OF THE CHILD

Third session

SUMMARY RECORD OF THE 50th MEETING

Held at the Palais des Nations, Geneva, on
Wednesday, 13 January 1993, at 10 a.m.

Chairman: Mrs. BADRAN

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The meeting was called to order at 10.15 a.m.

FUTURE STUDIES (agenda item 10)

FUTURE MEETINGS OF THE COMMITTEE (agenda item 12)

1. The CHAIRMAN reminded members that at its second session the Committee had proposed dates for the next two sessions of its pre-sessional working group (28 June-2 July 1993 and 15-19 November 1993) and for its fourth session (20 September-8 October 1993). It had also discussed the question of requesting the Secretary-General, specialized agencies or non-governmental organizations to undertake studies on its behalf on matters about which it considered it important to obtain information. It had also taken up the question of preparation by the secretariat of papers on, and bibliographies of, subjects relating to the rights of the child. The secretariat had prepared a note on that question and the Committee had available to it the responses of United Nations agencies and NGOs.

2. Mr. HAMMARBERG suggested that the Committee should also decide on the dates of its fifth session in early 1994, that it should give preliminary consideration to informal meetings to be held in 1993, and that it should further consider the topic to be chosen for general discussion at its fourth session.

3. Mgr. BAMBAREN GASTELUMENDI requested that the summer pre-sessional working group meetings be postponed until 5-9 July.

4. Mrs. SANTOS PAIS expressed the view that those meetings should be scheduled in such a way as to ensure that all five members could attend.

5. The CHAIRMAN said she took it that the participants in that group endorsed the dates suggested and requested the Secretary to ascertain whether the necessary facilities would be available at that time.

6. It was so agreed.

7. Mr. KOLOSOV suggested that it might be useful, prior to the July meeting, to agree on the responsibilities of members attending it and to consider the appointment of country rapporteurs.

8. Mr. HAMMARBERG proposed, in the light of recent experience, that the last three weeks of January 1994 would be the most practical time to hold the fifth session of the Committee.

9. Mgr. BAMBAREN GASTELUMENDI observed that, although he had another important commitment during that period, he would do his utmost to be available for the whole of that session.

10. The CHAIRMAN said she took it that the Committee wished to hold its fifth session from 10 to 28 January 1994.

11. It was so decided.

12. The CHAIRMAN, referring to the choice of topic for general discussion at the Committee's fourth session, said that after having considered the possibility of examining either child labour or poverty, the Committee had felt that the first was too narrow and the second too broad. Interest had subsequently been expressed in selecting economic exploitation as a topic, as it was felt that it lay midway between the two topics originally envisaged.

13. Mr. HAMMARBERG suggested that the topics selected should be situated with reference to specific articles of the Convention, particularly as the general discussion might well provide a basis for a general comment. Article 32 would be the provision most directly related to the topic currently proposed. The title might be better expressed as "protection against economic exploitation". To choose poverty as a topic would inevitably mean that discussion would be considerably broader and would touch on article 27, which would involve, inter alia, the consideration of an adequate standard of living, as well as child prostitution and sexual exploitation. It would be preferable to avoid attempting to deal with such a broad area as a single topic.

14. Mr. KOLOSOV agreed that it would be better to concentrate on the obligations of States parties under article 32 and suggested that the topic should be entitled "Protection of children from economic exploitation". At the same time, however, it must be recognized that other aspects, such as child prostitution, would inevitably be touched upon.

15. Mrs. SANTOS PAIS observed that the drafters of the Convention had apparently not intended to restrict the definition of economic exploitation solely to matters relating to work and working conditions, given the references in article 32 (1) to work hazardous to a child's education or harmful to his health or physical, mental, spiritual, moral or social development. As a consequence, the broader aspects of sexual exploitation, including child prostitution, and poverty would inevitably have to be considered in the context of economic exploitation. At the same time, however, it must be borne in mind that other bodies were specifically concerned with studying the root causes of poverty and underdevelopment, and that it was not the Committee's task to do so. The Committee should none the less consider the topic in a holistic perspective, with particular emphasis on the best interests of the child as a human being.

16. Mgr. BAMBAREN GASTELUMENDI said that any consideration of the economic exploitation of children must take into account the rather sensitive point that such exploitation was a fact arising from causes both internal - which were the responsibility of individual States - and external - including external debt, which lay beyond the control of national Governments.

17. Mrs. EUFEMIO observed that article 26 of the Convention, relating to the rights to social security, should also be considered in the context of protection against economic exploitation, particularly when looking at the situation of poor families in developing countries who had no option but to encourage their children to work.

18. Mr. HAMMARBERG observed that the comments of the preceding speakers showed the importance of clearly defining the topic to be addressed. While the context of economic responsibility, non-discrimination and sexual exploitation should be borne in mind, to include them directly for discussion would overburden the subject and lead to confusion.

19. Mr. KOLOSOV endorsed the comment of the preceding speaker, while at the same time drawing attention to the basic premise - on which the Committee's work must be based - that human rights were closely interrelated with development.

20. In the context of the topic selected, he recalled that there had been some mention of holding one of the Committee's sessions in Vienna, where the Centre for Social Development had its secretariat. Such a venue might well provide an opportunity for a large number of organizations to participate in a general discussion on economic exploitation.

21. Mrs. EUFEMIO said that, while she appreciated Mr. Hammarberg's concern to define and limit the topic for discussion in order to avoid confusion, it must also be borne in mind that the proposal of specific topics for general discussion was intended as a means of assisting interpretation of the provisions of the Convention. As there were relatively few meetings set aside for that purpose, it was important to ensure that maximum benefit was derived from them.

22. Miss MASON said that no matter how hard the Committee tried to limit the topic, general issues would still arise in the discussion, for no single topic in the Convention was so narrow as to exclude any other.

23. Mr. KOLOSOV said that the approach to the discussion must be action-oriented and the conclusions should contain recommendations for improvement of the protection of children, with follow-up action focused on the same goal.

24. Mrs. EUFEMIO said that the efforts to protect children should already be action-oriented. The family environment might be one aspect to be taken into account, for some children were already exploited by their families. Action could be taken to improve the family situation and thus protect children against economic exploitation.

25. The CHAIRMAN said that some thought should also be given to policy at the macro-level, for example, structural adjustment, national social funds and the direction of resources to vulnerable groups. Policy at the micro-level - the family and the community - was also important, and the Committee needed to establish a new focus linking the two levels.

26. Mrs. SANTOS PAIS said that the Committee should not rely only on outside input and should nominate two or three of its members to prepare the discussion. It would also be useful if the secretariat could request interested bodies to submit their views in writing. In addition to the usual United Nations bodies and NGOs, representatives of the Working Group

on Contemporary Forms of Slavery and the Committee on Economic, Social and Cultural Rights should be invited to participate. A brief working paper might be prepared on the topic, including a summary of the present discussion.

27. Mr. KOLOSOV suggested that such a working paper should be annexed to the report on the session.

28. The CHAIRMAN said that the secretariat might include a basic bibliography on the topic.

29. Ms. KLEIN-BIDMON (Representative of the Secretary-General) said that the secretariat would try to do so, but it was difficult to collate all the information on such a broad topic. Depending on the date of its next meeting the Committee's pre-sessional working group could have a discussion either with the working group of the Committee on Economic, Social and Cultural Rights or with the working group of the Human Rights Committee.

30. Mgr. BAMBAREN GASTELUMENDI asked when the new members of the Committee would be able to start participating in its work. It would be useful for them to attend the pre-sessional working group.

31. Ms. KLEIN-BIDMON (Representative of the Secretary-General) said that the term of office of the newly elected members would start on 1 March and they would be able to attend the pre-sessional meeting.

32. Mrs. SANTOS PAIS said that the Committee had been authorized to meet as a 10-member working group only for its latest pre-sessional meeting; only five members would be able to attend the next one. The workload might prove too heavy for such a small membership, and at its October session the Committee should perhaps consider seeking enlargement of the working group.

33. The CHAIRMAN pointed out that if any existing member was unable to attend the next pre-sessional meeting, his or her place could be taken by a newly elected member.

34. There seemed to be a consensus in the Committee that the topic for discussion should be the protection of children against economic exploitation; the approach should be a broad one and not limited to the question of child labour. The Committee did not seem to feel that it was possible to discuss children's problems in isolation from the broader context, but there was a difference between taking general problems into account and discussing them in depth. There also seemed to be agreement that a working group should draft a brief paper on the topic and that the secretariat should prepare a bibliography. She suggested that the working group should consist of Miss Mason, Mrs. Eufemio, Mr. Hammarberg and Mr. Kolosov.

35. It was so decided.

36. The CHAIRMAN said that the Committee also had to consider the question of the informal meeting to be held either in an African country or in Thailand.

37. Ms. BAHR (United Nations Children's Fund) said that no action had yet been taken on arrangements for the meeting. She would refer the matter to UNICEF headquarters and secure information for the Committee as early as possible.

38. Mr. HAMMARBERG, referring to the question of future studies, said that there were two kinds of studies involved, those provided for under article 45 of the Convention and those which the Committee could request from other bodies. Since, under the first category, the Committee had agreed to request a study on children in armed conflicts, it should now discuss studies of the second type. It should take the initiative in requesting reports and stimulating discussion, and should provide opportunities in its agenda for that kind of activity. The secretariat had produced a most useful note containing a preliminary list of topics identified by the Committee as possible subjects for study, and various other studies were already being carried out by organizations such as UNICEF. A further important area of study which should be added to the list of topics was that connected with article 2 of the Convention, concerning non-discrimination. It was a fundamental issue and a priority in the Committee's dialogue with Governments.

39. Mr. KOLOSOV suggested that UNESCO should be contacted about a study which could be undertaken in due course on education rights; it could even be extended to cover the use of the mass media.

40. The CHAIRMAN said that UNESCO had in fact chosen 10 countries to study as a follow-up to its World Conference on Education for All, so contact with UNESCO would indeed be useful.

41. Mrs. EUFEMIO regretted the lack of research into the family environment. Since 1994 would be the International Year of the Family, it would be an appropriate time to request studies on that subject from Governments, NGOs and universities.

42. Mrs. SANTOS PAIS said that the note from the secretariat was more than just a reference paper; it could be the starting-point for a database on children's rights. It was particularly important to encourage other bodies to share in the worldwide enthusiasm for children's rights. It might therefore be useful to contact the International Year of the Family secretariat since studies on the family environment and the social structures affecting and protecting the child could benefit the Committee. Regional organizations should also be contacted, particularly those at the European level, so that the secretariat could establish a database, including relevant studies by those organizations.

43. Mrs. RAADI (Secretary of the Committee) said that such organizations had already been asked to provide information on existing and planned studies; the note by the secretariat reflected replies to that request.

44. The CHAIRMAN suggested that priorities should be established for the list of studies since they could not all be requested at once.

45. Mrs. EUFEMIO said that the constitutions of many States parties recognized the family as the basic unit of society. No State could take care of all the needs of the child. Fewer problems arose in situations where families functioned well, and therefore study of the family environment should be given priority.

46. Mr. HAMMARBERG said that the purpose of the list of topics for possible study was to inform organizations what the Committee hoped would be done. Although the family environment and the best interests of the child should certainly be given priority, other topics were important as well.

47. The CHAIRMAN suggested that the Committee should send a long list of topics to organizations asking them not just if they had already undertaken studies on those topics but also if they would consider doing so in the future.

48. Mr. MOMBESHORA said that since some studies might have been undertaken before the entry into force of the Convention, it would be helpful if the Committee could initiate studies more closely related to the Convention.

49. Mrs. EUFEMIO agreed with Mr. Mombeshora. She further proposed that a framework should be set out for each topic of study, explaining why the Committee was interested in it; otherwise it might not relate directly to the provisions of the Convention.

50. The CHAIRMAN suggested that a few paragraphs of guidance and explanation should be prepared on each topic. For that purpose each member of the Committee should be allocated one or two topics.

51. Mrs. EUFEMIO endorsed the Chairman's suggestion.

52. Mr. HAMMARBERG said that the purpose of the list was to stimulate research and study both by the Committee and by other institutions. Even if the studies were not immediately beneficial to the Committee, they would contribute to increased awareness of children's rights. The list would be useful for United Nations agencies to bear in mind when planning their work, but the Committee should not give the impression that it was instructing them what to do. One person, possibly the Rapporteur, should be responsible for replies to queries about possible studies.

53. Mrs. POIRIER (United Nations Children's Fund) agreed with Mr. Hammarberg. It would certainly be useful to know why certain topics were important and how the studies would be used when they were completed.

54. The CHAIRMAN suggested that a covering letter should accompany the list of topics explaining that the studies were intended to create awareness of children's rights and eventually to lead to concrete policies; specific explanatory paragraphs should be prepared on each topic of study.

55. Mrs. EUFEMIO suggested that Mr. Hammarberg might like to write such a covering letter.

56. The CHAIRMAN proposed that Mr. Hammarberg and the Rapporteur could collaborate on the letter and that the Committee should specify that the list was of topics which would be of interest to it over the following two years.

57. It was so agreed.

The meeting was suspended at 12.05 p.m. and resumed at 12.25 p.m.

REPORT OF THE FOURTH MEETING OF PERSONS CHAIRING THE HUMAN RIGHTS TREATY BODIES (agenda item 4) (A/47/628)

58. The CHAIRMAN said that at its second session, the Committee had welcomed the holding of meetings of persons chairing the human rights treaty bodies and decided to bring the following important issues to the attention of their fourth meeting: (1) the innovative experience of holding informal regional meetings; (2) the problem of accessibility of information, including the issues of computerizing the work of the treaty bodies and establishing a resource room; (3) the importance of disseminating information on the Convention on the Rights of the Child and its monitoring mechanism, including free distribution of Committee documents and the provision of training and assistance within the technical and advisory services programme; and (4) the question of reservations and declarations.

59. The meeting of chairpersons had been most useful to both herself and the other chairpersons. Each chairperson had given a presentation of his or her committee's work, which had provided everyone with a valuable opportunity for an exchange of views. With rare exceptions, most of the issues raised were common to all the treaty bodies.

60. Concerning the regional informal meetings, which were an innovation of the Committee on the Rights of the Child, the chairpersons had expressed strong support for such meetings and suggested that ways should be explored to organize similar meetings for the various committees in the regions.

61. Regarding access to information, they believed that the problems encountered by the treaty bodies were closely linked to the broader information challenges facing the Centre for Human Rights, and that there was a need for developing a comprehensive information policy within the Centre as a whole. To that end, they recommended that the General Assembly should request the Secretary-General to take steps to establish a centralized information and documentation unit within the Centre. In the meantime, the chairpersons reiterated the need immediately to establish a committee resource room and to provide committee members with access to on-line information databases that contained information of direct relevance to their work. They had also requested that the Secretary-General should report regularly to the treaty bodies on progress made in implementing the programme of work identified by the Computer Task Force appointed by the Secretary-General at the request of the Commission on Human Rights and that immediate measures should be taken, on the basis of funds already available, to begin implementation of some of the Task Force's recommendations. The chairpersons had requested the secretariat to ensure that one copy of a comprehensive country dossier was available to each committee in respect of each State party

whose report was under consideration at any given session. They had recommended that each treaty body should consider formally inviting NGOs to submit written documentation to be included in the country dossiers.

62. With regard to the dissemination of information, the chairpersons recommended that an expert group, from outside the secretariat, should be constituted to undertake a comprehensive review of the existing information programme. The group would develop an entirely new strategy seeking to integrate the needs of the various sectors within the human rights programme, including the treaty bodies. As an interim measure, the chairperson of each committee, immediately after each session and with the assistance of the secretariat, should prepare a brief account of significant developments at that session and circulate it to the other chairpersons and if possible all committee members. The treaty bodies, the Governments concerned, the secretariat and the NGOs should all consider further ways of disseminating information on reports by States parties and the summary records concerned, apart from through the United Nations information centres. The chairpersons also recommended that the Manual on Reporting should be printed in the remaining languages and produced in loose-leaf format to facilitate updating, and that future fact sheets dealing with the work of any of the treaty bodies should be submitted to the chairperson of that body for review prior to finalization. The texts of the relevant instruments should be translated into all the major languages used in the country concerned, and the countries should provide the treaty bodies with details on which language versions were available, plans for future translations and copies of translations, with a view to building up a United Nations collection.

63. Turning to the issue of reservations, she said the chairpersons had noted that some of the reservations lodged appeared to be incompatible with the purpose of the treaties in question. In such cases, the treaty body should consider requesting the Economic and Social Council or the General Assembly to seek an advisory opinion on the issue from the International Court of Justice (ICJ). States parties should make any reservations as specific as possible and should undertake a regular review of the continuing need for, and desirability of, all such reservations and include the results of those reviews in each report submitted. States that were already parties to a particular treaty should give full consideration to lodging an objection whenever appropriate. The chairpersons had also recommended that consideration should be given in new human rights treaties to the identification of certain provisions as not permitting derogation and not being subject to reservations.

64. In addition to those issues, other issues had arisen that were of relevance to the Committee on the Rights of the Child. The first concerned massive violations of human rights, in which connection the chairpersons had fully endorsed the Secretary-General's suggestion that ways should be explored of empowering the Secretary-General and expert human rights bodies to bring such violations to the attention of the Security Council, together with recommendations for action. They had recommended that, whenever ad hoc expert groups were being established by United Nations bodies or the Secretary-General with a human rights objective, consideration should be given to drawing upon the expertise of members of the human rights treaty bodies. In that regard, they had considered that it might be appropriate for a member

of one of the treaty bodies to be included in the commission of experts appointed pursuant to Security Council resolution 780 (1992) to consider evidence of grave breaches of international humanitarian law in the territory of the former Yugoslavia.

65. On the matter of overdue reports, the chairperson of each committee had made suggestions. It was felt that, whatever solution was adopted, greater use should be made of technical assistance by the Centre for Human Rights in helping countries to prepare their reports. Regarding advisory services and technical assistance in particular, the chairpersons had recommended that the secretariat, in consultation with the treaty bodies, should draw up a list of priority countries whose reporting record would seem to indicate the need for advisory services. A letter offering specific types of assistance should then be dispatched to the Governments concerned. The chairpersons had recognized that it was essential for advisory services to be provided wherever possible to assist States in fulfilling their human rights obligations.

66. Mr. KOLOSOV noted that the agenda for the forthcoming forty-ninth session of the Commission on Human Rights contained an item 24, "Rights of the child", including a subparagraph (c), "Programme of action for the elimination of the exploitation of child labour", whereas there was no reference to a programme of action for the protection of children in armed conflicts. He wondered whether some delegations might not wish to do some "lobbying" with a view to adding a subparagraph (e) on that question, in order that the World Conference on Human Rights might pay due attention to it.

67. Regarding the question of reservations, it was his understanding that treaty bodies were not competent to seek advisory opinions from the ICJ. The problem of reservations was a matter to be solved among States parties, since it was their sovereign right to make reservations. Thus it was for delegations to ask the Economic and Social Council to seek an advisory opinion from the ICJ.

68. The CHAIRMAN said that, although she herself was not a lawyer, jurists present at the meeting of chairpersons had seemed confident that a treaty body was entitled to seek an advisory opinion from the ICJ. Perhaps the matter could be clarified on a future occasion.

69. Mrs. SANTOS PAIS expressed satisfaction at the fact that the meeting of chairpersons had adopted several of the Committee's recommendations, in particular the idea of holding regional meetings of treaty bodies. She was encouraged to learn that there was a shared concern regarding information and documentation, in which connection she would like to make two further suggestions. First, the Centre for Human Rights should be encouraged to centralize all its information relating to the rights of the child. Secondly, reports by States parties, summary records and the Committee's concluding observations, to be made available in United Nations information centres and offices of the United Nations Development Programme, should be issued in a single document.

70. She welcomed the fact that the chairpersons had found the compilation of general comments by the treaty bodies to be useful. That had been the Committee's own decision, and it was gratifying to see that the Committee's

decisions were helpful to others. Similarly, requesting the Security Council to intervene in cases of massive violations of human rights was a procedure similar to the Committee's own urgent action procedure and reflected the fact that the treaty bodies had an important role to play.

71. On a point raised by Mr. Kolosov, she said that the Commission on Human Rights already had a mandate concerning the programme of action on child labour, following extensive work by the Sub-Commission on Prevention of Discrimination and Protection of Minorities; it did not yet have a mandate in respect of children in armed conflicts. The Committee should be aware of the limits imposed on it by procedural decisions. However, since the Commission's agenda item covered several aspects of the rights of the child, she was confident that there would be ample opportunity to discuss that matter, even if it did not formally appear on the agenda.

72. Concerning the matter of reservations, she did not foresee a problem with regard to an advisory opinion from the ICJ. The Committee could always make such a request in its reports addressed to the General Assembly through the Economic and Social Council.

The meeting rose at 1 p.m.